

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
2006 Quadrennial Regulatory Review –)	
Review of the Commission’s Broadcast)	
Ownership Rules and Other Rules Adopted)	MB Docket No. 06-121
Pursuant to Section 202 of the)	
Telecommunications Act of 1996)	
)	
2002 Biennial Regulatory Review – Review)	
of the Commission’s Broadcast Ownership)	
Rules and Other Rules Adopted Pursuant to)	MB Docket No. 02-277
Section 202 of the Telecommunications Act)	
of 1996)	
)	
Cross-Ownership of Broadcast Stations and)	MM Docket No. 01-235
Newspapers)	
)	
Rules and Policies Concerning Multiple)	
Ownership of Radio Broadcast Stations in)	MM Docket No. 01-317
Local Markets)	
)	
Definition of Radio Markets)	MM Docket No. 00-244
)	

COMMENTS OF
FUTURE OF MUSIC COALITION AND
AMERICAN FEDERATION OF MUSICIANS

Michael Bracy
Future of Music Coalition
1615 L St NW, Suite 520
Washington, DC 20036 (202) 331-2958

Peter DiCola
Future of Music Coalition
515 N. Division St.
Ann Arbor, MI 48104 (734) 369-2234

Hal Ponder
American Federation of Musicians
910 17th St. NW, Suite 1070
Washington, DC 20006 (202) 463-0772

Patricia Polach, Esquire
Bredhoff and Kaiser
805 15th Street, NW, Suite 1000
Washington, DC 20005 (202) 842-2600
*Counsel for American Federation of Musicians of
the United States and Canada*

October 23, 2006

TABLE OF CONTENTS

I.	Executive Summary	1
II.	Introduction	1
III.	The Local Radio Ownership Rule	3
	A. Table 1: The Local Radio Ownership Rule.....	3
IV.	The FCC’s Idiosyncratic Market Definition	3
	A. Figure 1-A: The FCC’s Signal Contour Market Definition (as used from 1992-2004)	4
	B. Figure 1-A: The FCC’s Signal Contour Market Definition (as used from 1992-2004), continued.	5
V.	In Excess of the Cap, But Grandfathered In	6
	A. Table 2: Markets with Station Groups in Excess of the Local Ownership Cap	6
VI.	Exceeding the Caps Means Greater Concentration	7
VII.	Large Companies Over the Limit	7
	A. Table 3: The Ten Largest Owners and the Local Radio Ownership Rule ..	8
VIII.	Programming Variety	8
	A. Figure 2-A: Programming Variety of Stations in Groups Above the Local Ownership Cap, as Measured by BIA Format Categories	9
	B. Figure 2-B: Programming Variety of Stations in Groups Exactly at the Local Ownership Cap, as Measured by BIA Format Categories..	10
	C. Figure 2-C: Programming Variety of Stations in Groups Below the Local Ownership Cap, as Measured by BIA Format Categories..	11
IX.	Less Common Formats	11
	B. Table 4: Less Common Music Formats in Arbitron-Rated Markets	12
X.	Conclusion	12
	Appendix: Station Groups Exceeding the Local Ownership Cap and Grandfathered In, Listed Alphabetically by Local Market, Fall 2005	14

Do Radio Companies Offer More Variety When They Exceed the Local Ownership Cap?

Peter DiCola, J.D., M.A.

Ph.D. Candidate (Economics), University of Michigan

Research Director, Future of Music Coalition

Executive Summary

- The method by which the FCC defines local radio markets shapes how the local ownership caps will actually be enforced.
- From 1992 until 2004, the FCC's signal-contour market definition allowed more consolidation than Arbitron's market definition would have allowed.
- Because of mergers allowed during the signal-contour market definition era, in 104 markets there is now at least one radio company or organization that exceeds the local ownership cap.
- Station groups that are over the cap and station groups that are exactly at the cap offer less variety in programming formats than station groups that are under the cap.
- Relatively uncommon or "niche" formats like classical, jazz, folk, tejano, and gospel are least common among station groups that are over the cap or exactly at the cap—even though those station groups have the most spectrum to spend on niche formats—while being much more common among station groups that are under the cap.
- These findings suggest that increasing the local ownership cap would have no demonstrable benefit for programming variety and would instead cause harm to programming variety by endangering the smaller station groups that currently supply most of the diversity that exists in traditional radio.

Introduction

In 1996, the U.S. Congress passed a law that launched the transformation of the radio industry over the course of just a few years. The Telecommunications Act eliminated the limit on how many stations one entity could own nationally and raised the limits on how many stations one entity could own locally.¹ Advocates of the bill argued that a radio industry with larger firms would be better for business and for the public.² Before Congress relaxed the previous restrictions on radio-station ownership, radio was an industry of small, "mom-and-pop" radio companies, with a few regional companies as well. By 2001, radio had become an oligopolistic industry populated by national and multinational media conglomerates, large regional companies, and a now-smaller group of "mom-and-pop" companies.³

¹ Telecommunications Act of 1996 § 202(a), (b), Pub. Law No. 104-104, 110 Stat. 56 (codified in scattered sections of 47 U.S.C.).

² See PETER DICOLA & KRISTIN THOMSON, RADIO DEREGULATION: HAS IT SERVED CITIZENS AND MUSICIANS? 5-16 (2002), at <http://www.futureofmusic.org/research/radiostudy.cfm>

³ Cf. GEORGE WILLIAMS & SCOTT ROBERTS, RADIO INDUSTRY REVIEW 2002: TRENDS IN OWNERSHIP, FORMAT, AND FINANCE (Federal Communications Commission, Media Ownership Working Group Study No. 11, 2002).

Now, a decade after the Telecommunications Act of 1996, we can assess the more complex aspects and consequences of the legislation. The FCC's Local Radio Ownership Rule, although relaxed by Congress in the Telecommunications Act,⁴ still limits the size of station groups.⁵ (A station group is a set of stations owned or controlled by a single company in the same local market.) But enforcement of this rule depends on the details. Most important among the details is the particular way the FCC defines a local market. The precise definition of what constitutes a local market determines how the FCC actually enforces cap on local radio ownership.

From 1992 to 2004, the FCC used what is known as the “signal-contour” method of defining local markets, based on the overlapping signal coverage areas of radio stations.⁶ Because of certain aspects of this method, explained later in this paper, the signal-contour market definition allowed greater consolidation than a geography-based method market definition—for example, defining local markets to correspond to metropolitan areas—would have allowed.

In the fall of 2004, the FCC switched to a geography-based market definition, now borrowing its method of market definition from the Arbitron Company, which provides ratings of radio stations in local markets.⁷ The Arbitron market definition is more restrictive when used to apply the Local Radio Ownership Rule—it would have allowed less consolidation of ownership if it had been in place since 1992. After this switch in definitions, radio station owners who suddenly exceeded the local ownership caps in particular markets were grandfathered in.

These comments attempt to answer several questions that arise once we notice the profound consequences of the perhaps arcane detail of the FCC's signal-contour market definition: How many markets have owners whose holdings exceed the local radio ownership cap? How many markets have owners whose holdings put them exactly up to the cap?

What's more, analyzing such markets can provide answers to other questions about the results of consolidation: Do larger station groups offer more variety? Have the station groups that are grandfathered above the cap taken advantage of their size to offer more niche programming formats than the smaller station groups? As these comments will demonstrate, additional consolidation facilitated by the signal-contour market definition is widespread, but has not provided the public with additional programming variety. In fact, the large station groups grandfathered in above the local ownership cap offer less variety, in aggregate, than smaller

⁴ Telecommunications Act of 1996 § 202(b).

⁵ FCC Local Radio Ownership Rule, 47 C.F.R. § 73.3555(a) (2004).

⁶ For a helpful overview and explanation, see Notice of Proposed Rulemaking: Broadcast Services; Radio Stations, Television Stations, 65 Fed. Reg. 82305 ¶¶ 2-4 (Dec. 28, 2000).

⁷ A federal appellate court remanded back to the FCC parts of the rule the agency had adopted as a result of its 2002 biennial (now quadrennial) review of its media ownership rules. *Prometheus Radio Project v. FCC*, 373 F.3d 372 (3d Cir. 2004). But the court upheld certain of the FCC's proposed changes, including those made to the radio market definition. See Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested, 69 Fed. Reg. 78022 (Dec. 29, 2004).

station groups. This suggests that the FCC should not increase the current local ownership caps; rather, the FCC should either maintain the current rule or consider lowering the caps.

The Local Radio Ownership Rule

The FCC's Local Radio Ownership Rule uses a sliding scale, based on how many stations are in a local market, to determine the applicable limit on station ownership in each local market. There are three aspects of the rule, which apply simultaneously. In other words, a station group violates the cap by violating any aspect of the rule. First, there is a limit on the total number of commercial stations owned in a local market. Second, there is a separate limit on ownership of commercial FM stations. Third, there is a separate limit on ownership of commercial AM stations.

The caps Congress specified in the Telecommunications Act of 1996 remain in force today, and Table 1 describes them.⁸ The details of how those caps are applied, however, have changed, as this paper will discuss later.

Table 1: The Local Radio Ownership Rule

In a market with...	Total Limit Per Owner	AM Limit Per Owner	FM Limit Per Owner
45 or more stations	8 stations	5 stations	5 stations
30 to 44 stations	7 stations	4 stations	4 stations
15 to 29 stations	6 stations	4 stations	4 stations
10 to 14 stations	5 stations	3 stations	3 stations
8 or 9 stations	4 stations	3 stations	3 stations
6 or 7 stations	3 stations	3 stations	3 stations
4 or 5 stations	2 stations	2 stations	2 stations
1 to 3 stations	1 station	1 station	1 station

The rule as described in the last four rows of Table 1 is not spelled out explicitly, but is implied by the limitation that no entity can own more than 50 percent of the stations in a local radio market. The Local Radio Ownership Rule is a limit on the number of *commercial* stations an entity may own—even though the size of a market (the left-most column of Table 1) includes both commercial and noncommercial stations.

A radio company can exceed any or all of the facets of the Local Radio Ownership Rule in a particular local market. For instance, in large markets, the total limit is 8 commercial stations while the AM and FM limits each stand at 5 commercial stations. If one company has a station group with 11 total stations, 6 FM and 5 AM, then that company would exceed the limit with respect to two aspects of the Local Radio Ownership Rule (the total cap and the FM cap) while

⁸ FCC Local Radio Ownership Rule, 47 C.F.R. § 73.3555(a) (2004).

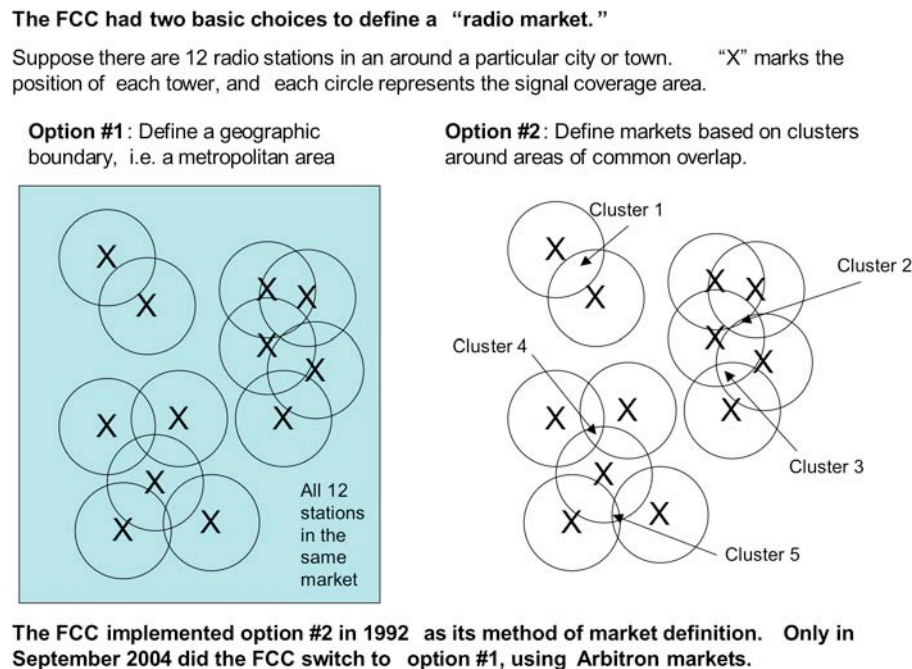
reaching the AM cap exactly.⁹ Thus the categories of “station groups exceeding the total limit,” “station groups reaching the FM limit exactly,” and so on, can overlap.

How the FCC applies the Local Radio Ownership Rule depends on another important detail: which stations are considered part of a local market and which stations are not. Applying a local cap to a “market” necessitates that the FCC define what a market is and specify what each market includes. The particular way the FCC defines markets determines how the cap on local radio ownership will be enforced.

The FCC’s Idiosyncratic Market Definition

For many decades until 2004, the FCC used a signal-contour method of defining local markets. Signal-contour methods are based on the overlapping signal coverage areas of radio stations. In 1992, the FCC codified a particular implementation of this method. The signal-contour method worked adequately until the local ownership cap increased—at which point the signal-contour method became something of a loophole.¹⁰ With higher caps, the signal-contour method became more permissive and allowed more consolidation to occur.

Figure 1-A. The FCC’s Signal-Contour Market Definition (as used from 1992-2004).



⁹ Such a station group might have formed before the FCC switched to a geography-based market definition in 2004. If so, it would be grandfathered in, exceeding the cap without necessarily violating the Telecommunications Act of 1996 or FCC regulations.

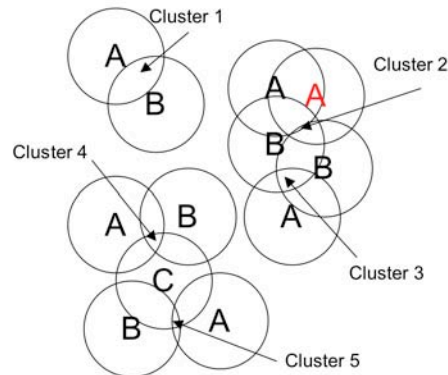
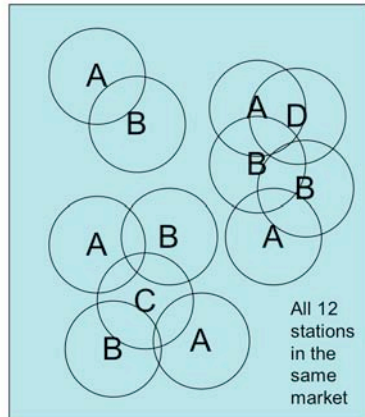
¹⁰ Notice of Proposed Rulemaking: Broadcast Services; Radio Stations, Television Stations, 65 Fed. Reg. 82305 ¶ 7 (Dec. 28, 2000).

Figure 1-B. The FCC's Signal-Contour Market Definition (as used from 1992-2004), continued.

Enforcing the local cap with option #2 allows more consolidation than with option #1.

Option #1 defines a 12-station market, so local cap of 5 applies, following Table 2-3's sliding scale.

Option #2 defines 5 clusters as markets. Within each cluster-market, no company may own more than half the stations, again following Table 2-3.



Option #1 limits companies A and B to 5 stations. Option #2, with the same geographic area broken into several clusters, permits company A to own 6 stations instead. In our example, this eliminates one independent owner (company D) and allows more consolidation.

Figures 1-A and 1-B explain how, in some markets, a market definition based on signal contours allowed more mergers among radio companies than would have been permissible otherwise.

Holdings acquired under the old signal-contour market definition have been grandfathered in. Thus, situations in which some entity exceeds the cap are not necessarily illegal. Such situations illustrate, however, that regulatory details can matter quite a bit. And this highlights another problem with the signal-contour market definition, beyond the way it exacerbated increasing consolidation.

The signal-contour method market definition, in particular, is almost hopelessly complicated to analyze, let alone explain. Signal-contour-defined markets exist only in the most intangible way. For example, a station in Waterbury, Connecticut could be in hundreds of different markets, depending on how many stations' signals its own signal overlaps. Arbitron's method of market definition—assigning each station to exactly one market—is much more practical and intuitive. Thinking of markets in terms of the convoluted and multiplicative signal-contour market definition is like staring at the radio industry through the looking glass.

Moreover, such a lack of clarity makes it difficult for the public to monitor the industry—or for the FCC itself to do so. Their market definition had created such a big problem, in fact, that the FCC actually had to solve it by switching to the Arbitron definition in September 2004. Although the FCC has fixed the problem with respect to future mergers, the results of many years of using the opaque signal-contour market definition remain.

In Excess of the Cap, But Grandfathered In

The Arbitron market definition is more restrictive when used to apply the Local Radio Ownership Rule—if it had been in place since 1992, it would have allowed less ownership consolidation. The change in market definition meant that, suddenly, some radio station owners exceeded the local cap in some markets. But rather than making local owners divest stations held in excess of the local caps, the FCC grandfathered in the excessive holdings.

The issue of market definition explains why radio companies in some markets appear to have radio-station holdings that violate the FCC’s Local Radio Ownership Rule. For example, when a company owns nine stations in a market with a cap of seven stations, the signal-contour market definition can often explain the apparent violation. Many owners now exceed the local ownership cap and have been grandfathered in since the market definition changed in 2004. Table 2 shows how many markets and how many owners are in such a situation.¹¹

Table 2. Markets with Station Groups in Excess of the Local Ownership Cap.

Category	Number of Station Groups	Number of Markets	Percentage of Markets
At Least One Station Group Exceeds Overall Cap	60	56	19%
At Least One Station Group Exceeds FM Cap	114	92	31%
At Least One Station Group Exceeds AM Cap	3	3	1%
At Least One Station Group Exceeds At Least One Aspect of the Cap (Overall, FM, or AM)	128	104	35%

Table 2 shows that, as of fall 2005, at least one radio owner exceeded at least one of the limits of the Local Radio Ownership Rule in 104 different local markets, or over one-third of all Arbitron markets. (There are 297 markets that Arbitron tracks within the U.S., not including Puerto Rico.) That breaks down across the three facets of the Rule as follows: in 56 markets at least one radio owner exceeded the cap on total commercial stations; in 92 markets, at least one owner exceeded the cap on commercial FM stations; and in 3 markets, one owner exceeded the cap on commercial AM stations.

The appendix to this paper lists the individual Arbitron markets in which at least one entity exceeds the cap.

Many more station groups exactly reach, but do not exceed, the local ownership cap. In fall 2005, this situation existed in 194 local markets, or nearly two-thirds of all Arbitron markets.

¹¹ Source data: Media Access Pro (Radio Version), BIA Financial Networks, data as of November, 2005.

(Note that these 194 markets may overlap with the 104 markets in which at least one station group exceeds the cap.)

This breaks down among the three facets of the Rule as follows: in 101 markets, at least one radio owner had holdings that exactly reach the cap on total commercial stations; in 186 markets, at least one radio owner had exactly reached the cap on commercial FM stations; and in 24 markets, at least one radio owner had exactly reached the cap on commercial AM stations.

Exceeding the Caps Means Greater Concentration

Increasing the local caps while using the signal-contour market definition resulted in even higher levels of concentration than increasing the caps while using Arbitron's market definition would have allowed. The concentration of ownership, as measured by the Herfindahl-Hirschman Index (HHI), is greater in markets with at least one entity in excess of the cap. HHI is equal to the sum of the square of each company's market share, and ranges from 0 to 10,000. A merger between two companies in a local market increases the HHI because the sum of two squared market shares is less than the square of the sum of those two market shares.

HHIs above 1000, and especially HHIs above 1800, have traditionally triggered closer antitrust concern for the Department of Justice and the Federal Trade Commission. Though HHI figures are not used rigidly in antitrust regulation, HHIs in excess of 1800 generally lead to close scrutiny for mergers that would increase the HHI by 50 points or more.¹²

Markets with at least one owner in excess of some aspect of the local ownership cap have an average listenership-ratings HHI of 2868, compared to an average of 2465 for markets without. HHIs based on stations' advertising revenue show a similar difference: 3741 for markets with an owner in excess of the cap, 3431 for markets without.¹³ Thus, markets with cap-exceeding owners have HHIs that are 403 points greater (using shares of listenership ratings) and 310 points greater (using shares of advertising revenue).

This shows how important regulatory details like market definition can become. The differences in HHIs in markets with station groups exceeding the local caps versus those markets without such station groups, if they were caused by a single merger, would be many times larger than the difference generally needed to trigger antitrust concern under the merger guidelines of the Department of Justice and the Federal Trade Commission.

Large Companies Over the Limit

Which companies tend to stand in excess of, or at the exact level of, the local ownership caps? Table 3 shows the ten largest owners of U.S. radio stations (by market share) and displays the

¹² FEDERAL TRADE COMMISSION AND U.S. DEPARTMENT OF JUSTICE, COMMENTARY ON THE HORIZONTAL MERGER GUIDELINES 20-21 (2006).

¹³ Ratings-based HHIs were calculated from Arbitron 12+ ratings share data. Revenue-based HHIs were calculated from BIA's proprietary station-level revenue estimates. Source data: Media Access Pro (Radio Version), BIA Financial Networks, data as of November, 2005.

number of local markets in which they are over or exactly at any aspect of the local radio ownership cap.¹⁴ Clear Channel exceeds the cap in the most local markets, followed by Cumulus, Citadel, and Infinity (now CBS Radio). Markets listed in the two columns of Table 3 can overlap, as described above.

Table 3. The Ten Largest Owners and the Local Radio Ownership Rule.

Company	Number of Markets Company is <u>Over</u> the Total, FM, and/or AM Cap	Number of Markets Company is <u>Exactly At</u> the Total, AM, and/or FM Cap
Clear Channel Communications	43	89
Infinity Broadcasting (CBS Radio)	1	13
Citadel Broadcasting Corp. (pre-merger w/ ABC Radio)	6	14
ABC/Disney (before sale of ABC Radio)	0	1
Cumulus Broadcasting Inc.	13	22
Cumulus Media Partners LLC (Cumulus Has 25% Stake)	0	1
Cox Radio Inc.	2	6
Entercom	4	5
Radio One Inc.	1	4
Univision Communications Inc.	1	1
Emmis Communications	1	0
Bonneville International Corp.	0	0

Radio owners with holdings that exceed or exactly reach the Local Radio Ownership Rule thus tend to be national companies, as opposed to regional or local companies. One might define “local” based on the number of metropolitan areas, states, or counties in which a radio company has holdings.

Using this definition of local, only 7 instances of a company exceeding the total ownership cap involve a local company with holdings restricted to a single Arbitron market (out of a total of 60 such limit-exceeding station groups across 56 Arbitron markets). Only 11 instances of a company exceeding the total ownership cap involve companies with all their holdings within a single U.S. state. And only 9 instances of a company exceeding the total ownership cap involve companies with all their holdings restricted to one or two counties.

Programming Variety

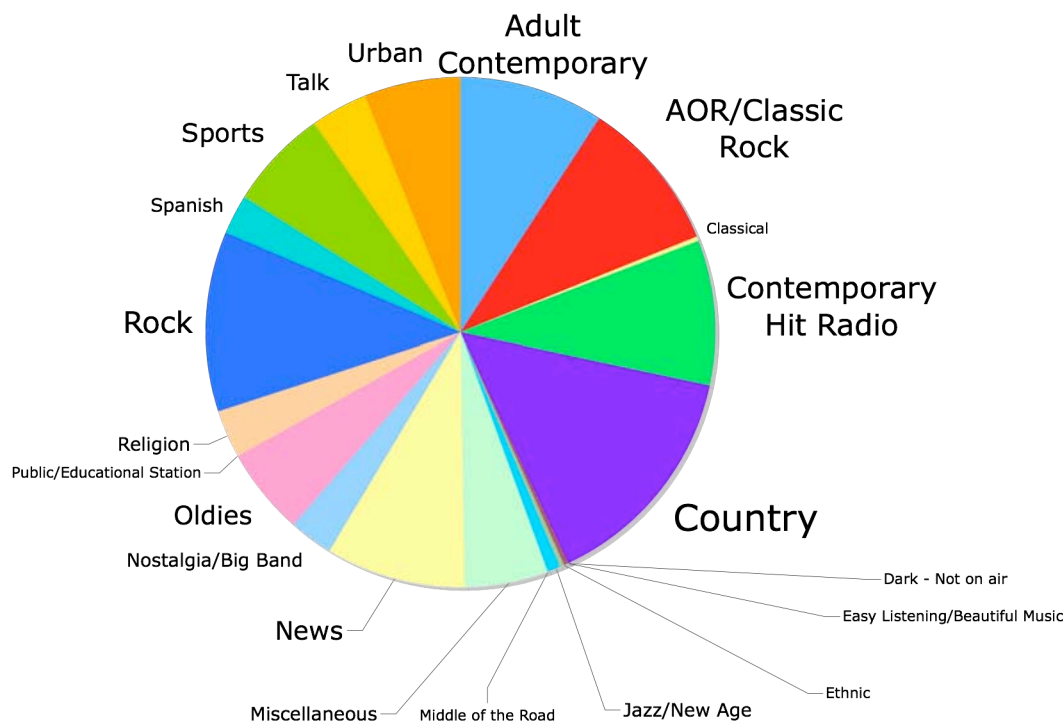
In theory, large station groups offer radio companies an opportunity to offer the widest variety. It stands to reason that a station group containing, say, twelve stations could be more likely to offer a wider variety of programming formats than a station group with only four stations. So

¹⁴ Source data: Media Access Pro (Radio Version), BIA Financial Networks, data as of November, 2005.

one might expect station groups in excess of the local ownership cap to offer programming in a wider range of programming formats. These groups do not simply have large numbers of stations—they also have more stations than their competitors. And the shift to an Arbitron market definition together with their grandfathered status protects them from competitors owning as many stations as they do.

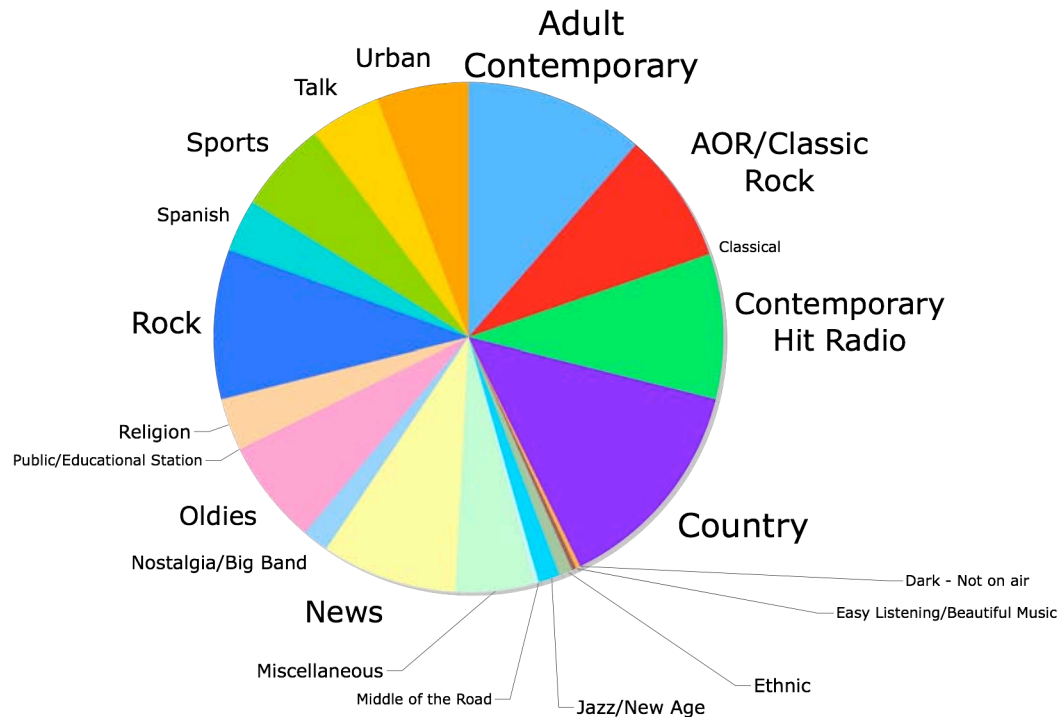
BIA Financial Networks categorizes each U.S. radio station's programming format into one of twenty-one categories. To measure programming variety among station groups in excess of the local ownership cap, one can calculate the frequency of the each BIA format category among them. Despite the hypothesis that larger station groups will offer more variety, the contrary is true. Figures 2-A, 2-B, and 2-C are pie charts showing the programming offerings of the aggregate set of station groups in excess of the cap, the aggregate set of station groups exactly at the cap, and the aggregate set of station groups below the cap, respectively.¹⁵

Figure 2-A. Programming Variety of Stations in Groups Above the Local Ownership Cap, as Measured by BIA Format Categories.



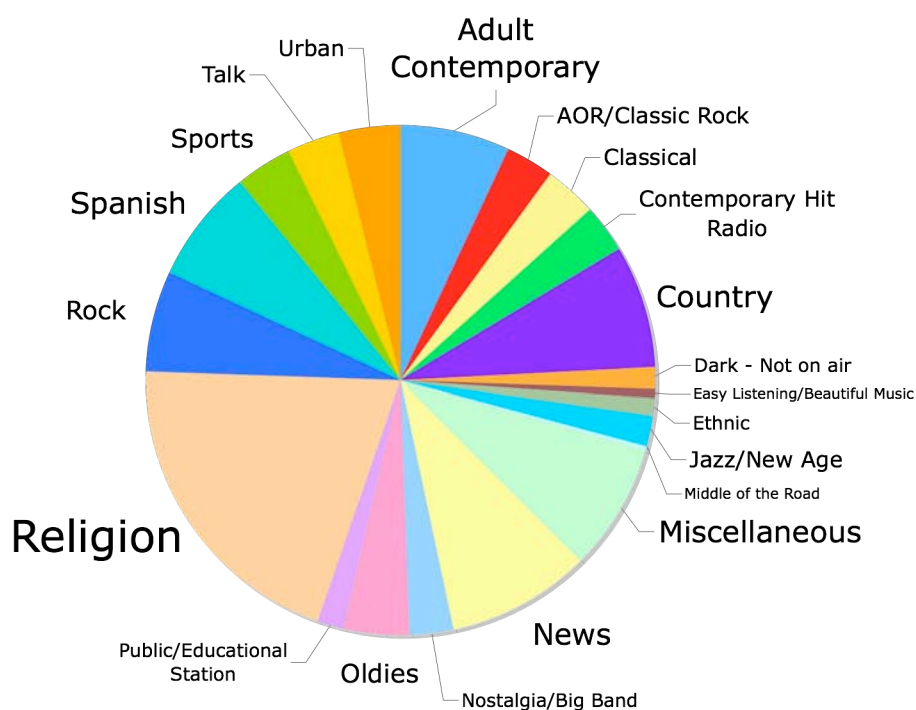
¹⁵ Source data: Media Access Pro (Radio Version), BIA Financial Networks, data as of November, 2005.

Figure 2-B. Programming Variety of Stations in Groups Exactly at the Local Ownership Cap, as Measured by BIA Format Categories.



The pie charts in Figures 2-A and 2-B are highly similar. The largest station groups—that is, those in excess of or exactly at the local ownership cap—focus on six format categories: Adult Contemporary, Album-Oriented Rock/Classic Rock, Contemporary Hit Radio (Top 40), Country, News, and Rock. The other format categories are underrepresented compared to the rest of radio. Among the largest station groups, Spanish-format stations are relatively underrepresented. Meanwhile Classical or Educational stations are almost nonexistent among large station groups.

Figure 2-C. Programming Variety of Stations in Groups Below the Local Ownership Cap, as Measured by BIA Format Categories.



The pie chart in Figure 2-C, on the other hand, differs from the other two charts. Religious-format stations and Spanish-format stations are more common, as are Classical and Jazz/New Age stations. The balance across all programming format categories is generally more even. It appears that a wider variety of programming comes from the relatively small station groups—not the large station groups that resulted from the FCC’s signal-contour market definition. This finding casts doubt on any potential claims that larger station groups will offer the public a wider variety of programming.

Less Common Formats

A company allowed to have holdings in excess of the Local Radio Ownership Rule’s limits will have the most opportunities to program in specific “niche” formats within the BIA format categories discussed in the last section. For example, if a radio company has 10 stations in a local market in which all other companies are now limited to 7 stations, then those 3 stations in excess give an owner particular flexibility. Thus it is natural to ask whether radio companies in excess of the ownership caps tend to program more diverse or unusual formats. One might think that large, grandfathered-in station groups offer radio companies an opportunity to experiment. As it happens, companies do not appear to take that opportunity.

Looking at a group of ten less common music formats, one can compare the offerings of radio companies in markets where their holdings exceed the local ownership caps to the offerings of all other radio companies. This analysis, displayed in Table 4, looks only at stations in the 297 Arbitron-rated markets in the U.S.¹⁶

Table 4. Less Common Music Formats in Arbitron-Rated Markets.

Programming Format	Stations In Groups Above the Limit	%	Stations In Groups Exactly at the Limit	%	Stations In Groups Below the Limit	%
Classical	3	0.3%	2	0.1%	187	3.2%
Jazz	2	0.2%	1	0.1%	60	1.0%
Big Band	0	0.0%	0	0.0%	14	0.2%
Gospel	21	2.4%	27	1.8%	281	4.8%
Christian Contemporary	3	0.3%	9	0.6%	253	4.3%
Folk/Americana/Bluegrass	0	0.0%	0	0.0%	15	0.3%
Tejano/Ranchera/Reggaeton/Tropical	1	0.1%	6	0.4%	16	0.3%
Children	1	0.1%	3	0.2%	54	0.9%
Eclectic	0	0.0%	0	0.0%	16	0.3%
Easy Listening/Beautiful Music	2	0.2%	3	0.2%	29	0.5%
Other Formats	853	96.3%	1462	96.6%	4949	84.3%
TOTAL	886	100%	1513	100%	5874	100%

As Table 4 demonstrates, the ten types of less common music formats listed above are actually *underrepresented* among owners with holdings in excess of the ownership caps. This is the case even though radio owners who exceed the Local Ownership Rule have greater flexibility to choose formats in their larger portfolios of stations.

The musical variety across the Arbitron markets is coming from radio owners whose holdings are under the caps, or whose holdings meet the caps exactly. Owners who exceed the local ownership cap tend to program in the more common Country, Adult Contemporary, Top 40, Urban, Rock, and AOR/Classic Rock formats.

Conclusion

The FCC's implementation of the Local Radio Ownership Rule has resulted in a greater amount of consolidation in some markets as compared to others. In 104 markets, at least one radio owner exceeds the Local Radio Ownership Rule. Most instances of exceeding the local

¹⁶ Source data: Media Access Pro (Radio Version), BIA Financial Networks, data as of November, 2005.

ownership caps involve the ten largest owners of radio companies. Yet despite their large portfolios of stations, radio owners with station groups in excess of the local ownership caps do not tend to program in a diverse range of formats. Instead, they focus on a relatively narrow range of format categories. Smaller station groups are the source of a wider and more balanced variety of programming, including so-called “niche” formats like classical, jazz, folk, tejano, and gospel.

Most importantly, these findings speak to whether the FCC should increase, maintain, or lower the local ownership rule. If the largest station groups do not provide additional variety with their additional stations, then there is no demonstrable benefit to the public from allowing even more station groups of such size. Even when large station groups operate with special treatment, grandfathered above the local ownership cap at the same time other station groups must now obey the cap—even when these station groups are protected from competition in this way—they focus primarily on just six programming-format categories: news, adult contemporary, rock, classic rock, country, and contemporary hit radio/top 40. To promote diversity in programming, the FCC should not increase the local ownership caps. This evidence strongly suggests that the FCC should maintain the current local ownership rule or lower it instead. Smaller station groups are the source of whatever diversity in programming exists in radio today.

Further research on the behavior of large station groups could expand on the findings described earlier in these comments. But to date there is no evidence that larger station groups within local markets offer more variety or more “niche” formats. And the evidence of this paper suggests otherwise. Small, not large, station groups supply variety to radio listeners. In light of these findings, the FCC should retain its current local ownership caps for the sake of maintaining a radio industry with as many small station groups and independent (i.e., single-station) owners as possible. The FCC might also consider a policy of mandated divestiture for those station groups in excess of the local ownership cap—since there appears to be no benefit, at least in terms of programming variety, to allowing such large station groups.

**Appendix: Station Groups Exceeding the Local Ownership Cap and Grandfathered In,
Listed Alphabetically by Local Market, Fall 2005.**

Local Market	Owner	Stations Owned	Aspect of Cap	Numeric Cap
Albany, GA	Cumulus Bcstg. Inc	8	Overall	6
Albany, GA	Cumulus Bcstg. Inc	6	FM	4
Albany-Schenectady-Troy, NY	Pamal Bcstg. Ltd	10	Overall	8
Albany-Schenectady-Troy, NY	Pamal Bcstg. Ltd	8	FM	5
Albuquerque, NM	Citadel Bcstg. Corp	8	Overall	7
Albuquerque, NM	American General Media	5	FM	4
Albuquerque, NM	Citadel Bcstg. Corp	5	FM	4
Albuquerque, NM	Clear Channel Comm.	6	FM	4
Albuquerque, NM	Univision Comm. Inc	5	FM	4
Altoona, PA	Forever Bcstg. Inc.	6	Overall	5
Altoona, PA	Forever Bcstg. Inc.	4	FM	3
Atlantic City-Cape May, NJ	Equity Comm. LP	9	Overall	7
Atlantic City-Cape May, NJ	Equity Comm. LP	7	FM	4
Augusta, GA	Beasley Broadcast Group	9	Overall	7
Augusta, GA	Beasley Broadcast Group	6	FM	4
Augusta, GA	Clear Channel Comm.	5	FM	4
Austin, TX	Clear Channel Comm.	5	FM	4
Austin, TX	Emmis Comm.	5	FM	4
Bakersfield, CA	Clear Channel Comm.	5	FM	4
Bangor, ME	Clear Channel Comm.	7	Overall	6
Bangor, ME	Clear Channel Comm.	6	FM	4
Baton Rouge, LA	Guaranty Bcstg. Company LLC	5	FM	4
Battle Creek, MI	Clear Channel Comm.	4	Overall	3
Beckley, WV	Southern Comm. Corp	6	Overall	5
Beckley, WV	Southern Comm. Corp	4	FM	3
Bismarck, ND	Clear Channel Comm.	6	Overall	5
Bloomington, IL	AAA Entertainment	4	FM	3
Bluefield, WV	Triad Bcstg. Company	9	Overall	6
Bluefield, WV	Triad Bcstg. Company	5	FM	4
Brunswick, GA	Qantum Comm. Corp	6	Overall	5
Brunswick, GA	Qantum Comm. Corp	4	FM	3
Buffalo-Niagara Falls, NY	Entercom	7	Overall	6
Charleston, SC	Citadel Bcstg. Corp	5	FM	4
Charleston, SC	Clear Channel Comm.	5	FM	4
Charleston, WV	West Virginia Radio	7	Overall	6
Chattanooga, TN	Clear Channel Comm.	5	FM	4
Chicago, IL	NextMedia Group	11	Overall	8
Chicago, IL	NextMedia Group	8	FM	5
Chico, CA	Results Radio LLC	5	FM	4
Clarksville-Hopkinsville, TN-KY	Saga Comm. Inc	6	Overall	5
Clarksville-Hopkinsville, TN-KY	Saga Comm. Inc	4	FM	3
Cleveland, OH	Clear Channel Comm.	5	FM	4
Columbia, SC	Inner City Bcstg. Corporation	5	FM	4
Columbus, GA	Clear Channel Comm.	8	Overall	6
Columbus, GA	Clear Channel Comm.	5	FM	4
Columbus-Starkville-West Point, MS	Cumulus Bcstg. Inc	7	Overall	6
Concord, NH	Nassau Bcstg. Partners LP	8	Overall	6
Concord, NH	Nassau Bcstg. Partners LP	7	FM	4

Local Market	Owner	Stations Owned	Aspect of Cap	Numeric Cap
Dayton, OH	Clear Channel Comm.	8	Overall	7
Dayton, OH	Clear Channel Comm.	6	FM	4
Decatur, IL	Cromwell Group Inc, The	4	FM	3
Duluth-Superior, MN-WI	Red Rock Radio Corp	5	FM	4
Eau Claire, WI	Clear Channel Comm.	5	FM	4
Elizabeth City-Nags Head, NC	East Carolina Radio Inc.	8	Overall	6
Elizabeth City-Nags Head, NC	East Carolina Radio Inc.	5	FM	4
Evansville, IN	Regent Comm., Inc	5	FM	4
Fargo-Moorhead, ND-MN	Clear Channel Comm.	7	Overall	6
Fargo-Moorhead, ND-MN	Clear Channel Comm.	5	FM	4
Fayetteville, AR	Cumulus Bcstg. Inc	7	Overall	6
Fayetteville, AR	Cumulus Bcstg. Inc	5	FM	4
Florence, SC	Cumulus Bcstg. Inc	8	Overall	6
Florence, SC	Qantum Comm. Corp	7	Overall	6
Florence, SC	Cumulus Bcstg. Inc	6	FM	4
Florence, SC	Qantum Comm. Corp	5	FM	4
Fresno, CA	Clear Channel Comm.	6	FM	5
Ft. Wayne, IN	Summit City Radio Group, LLC	5	FM	4
Gainesville-Ocala, FL	Jablamo LLC	9	Overall	7
Gainesville-Ocala, FL	Asterisk Comm. Inc.	5	FM	4
Gainesville-Ocala, FL	Jablamo LLC	5	FM	4
Grand Rapids, MI	Clear Channel Comm.	5	FM	4
Green Bay, WI	Cumulus Bcstg. Inc	5	FM	4
Greenville-New Bern-Jacksonville, NC	NextMedia Group	6	FM	5
Greenville-Spartanburg, SC	Entercom	5	FM	4
Hilton Head, SC	Triad Bcstg. Company	4	FM	3
Huntington-Ashland, WV-KY	Clear Channel Comm.	9	Overall	6
Huntington-Ashland, WV-KY	Clear Channel Comm.	5	FM	4
Jacksonville, FL	Clear Channel Comm.	6	FM	5
Kansas City, MO-KS	Entercom	9	Overall	7
Kansas City, MO-KS	Entercom	5	FM	4
Killeen-Temple, TX	Cumulus Bcstg. Inc	4	FM	3
Knoxville, TN	Horne Radio LLC	5	AM	4
Lafayette, LA	Regent Comm., Inc	5	FM	4
LaSalle-Peru, IL	Mendota Bcstg. Inc.	5	FM	4
Laurel-Hattiesburg, MS	Clear Channel Comm.	7	Overall	6
Laurel-Hattiesburg, MS	Clear Channel Comm.	5	FM	4
Lebanon-Rutland-White River Junction, NH-VT	Clear Channel Comm.	10	Overall	7
Lebanon-Rutland-White River Junction, NH-VT	Nassau Bcstg. Partners LP	8	Overall	7
Lebanon-Rutland-White River Junction, NH-VT	Clear Channel Comm.	7	FM	4
Lebanon-Rutland-White River Junction, NH-VT	Nassau Bcstg. Partners LP	6	FM	4
Lexington-Fayette, KY	Clear Channel Comm.	5	FM	4
Lima, OH	Clear Channel Comm.	5	FM	4
Little Rock, AR	Citadel Bcstg. Corp	10	Overall	7
Little Rock, AR	Citadel Bcstg. Corp	7	FM	4
Little Rock, AR	Clear Channel Comm.	5	FM	4

Local Market	Owner	Stations Owned	Aspect of Cap	Numeric Cap
Los Angeles, CA	Clear Channel Comm.	10	Overall	8
Los Angeles, CA	Clear Channel Comm.	6	FM	5
Los Angeles, CA	Multicultural Radio Bcstg. Inc	6	AM	5
Louisville, KY	Clear Channel Comm.	10	Overall	7
Louisville, KY	Clear Channel Comm.	6	FM	4
Louisville, KY	Radio One Inc	6	FM	4
Macon, GA	Cumulus Bcstg. Inc	8	Overall	7
Macon, GA	Clear Channel Comm.	5	FM	4
Macon, GA	Cumulus Bcstg. Inc	5	FM	4
Madison, WI	Mid-West Family Broadcast Group	8	Overall	7
Madison, WI	Mid-West Family Broadcast Group	5	FM	4
McAllen-Brownsville-Harlingen, TX	Border Media Partners LLC	7	Overall	6
Meadville-Franklin, PA	Forever Bcstg. Inc.	10	Overall	6
Meadville-Franklin, PA	Forever Bcstg. Inc.	6	FM	4
Montgomery, AL	Cumulus Bcstg. Inc	7	Overall	6
Myrtle Beach, SC	Cumulus Bcstg. Inc	7	Overall	6
Myrtle Beach, SC	Cumulus Bcstg. Inc	6	FM	4
New Orleans, LA	Clear Channel Comm.	5	FM	4
Oklahoma City, OK	Citadel Bcstg. Corp	5	FM	4
Omaha-Council Bluffs, NE-IA	Waitt Radio	8	Overall	7
Omaha-Council Bluffs, NE-IA	Journal Comm. Inc	5	FM	4
Orlando, FL	Clear Channel Comm.	5	FM	4
Orlando, FL	Cox Radio Inc	5	FM	4
Palm Springs, CA	MCC Radio LLC	7	Overall	6
Panama City, FL	Clear Channel Comm.	5	FM	4
Peoria, IL	AAA Entertainment	5	FM	4
Peoria, IL	Regent Comm., Inc	5	FM	4
Portland, ME	Citadel Bcstg. Corp	6	FM	4
Portland, ME	Nassau Bcstg. Partners LP	5	FM	4
Portsmouth-Dover-Rochester, NH	Clear Channel Comm.	7	Overall	6
Poughkeepsie, NY	Clear Channel Comm.	7	Overall	6
Poughkeepsie, NY	Clear Channel Comm.	5	FM	4
Raleigh-Durham, NC	Curtis Media Group	10	Overall	7
Raleigh-Durham, NC	Curtis Media Group	5	FM	4
Raleigh-Durham, NC	Curtis Media Group	5	AM	4
Redding, CA	Results Radio LLC	5	FM	4
Roanoke-Lynchburg, VA	Clear Channel Comm.	9	Overall	7
Roanoke-Lynchburg, VA	Clear Channel Comm.	7	FM	4
Saginaw-Bay City-Midland, MI	Citadel Bcstg. Corp	5	FM	4
Salisbury-Ocean City, MD	Clear Channel Comm.	8	Overall	7
Salisbury-Ocean City, MD	Delmarva Bcstg. Company	8	Overall	7
Salisbury-Ocean City, MD	Great Scott Bcstg. Inc	10	Overall	7
Salisbury-Ocean City, MD	Clear Channel Comm.	6	FM	4
Salisbury-Ocean City, MD	Delmarva Bcstg. Company	6	FM	4
Salisbury-Ocean City, MD	Great Scott Bcstg. Inc	8	FM	4
San Diego, CA	Clear Channel Comm.	5	FM	4
San Francisco, CA	Clear Channel Comm.	6	FM	5
Santa Barbara, CA	Clear Channel Comm.	7	Overall	6
Sarasota-Bradenton, FL	Clear Channel Comm.	7	Overall	6
Sarasota-Bradenton, FL	Clear Channel Comm.	5	FM	4

Local Market	Owner	Stations Owned	Aspect of Cap	Numeric Cap
Savannah, GA	Cumulus Bcstg. Inc	7	Overall	6
Savannah, GA	Cumulus Bcstg. Inc	5	FM	4
Sebring, FL	Cohan Radio Group Inc.	5	Overall	3
Shreveport, LA	Access.1 Comm.	5	FM	4
Sussex, NJ	Clear Channel Comm.	4	Overall	2
Sussex, NJ	Clear Channel Comm.	3	FM	2
Syracuse, NY	Galaxy Comm.	9	Overall	7
Syracuse, NY	Clear Channel Comm.	5	FM	4
Syracuse, NY	Galaxy Comm.	6	FM	4
Tampa-St. Petersburg-Clearwater, FL	Cox Radio Inc	6	FM	5
The Florida Keys, FL	Clear Channel Comm.	6	FM	4
Toledo, OH	Cumulus Bcstg. Inc	8	Overall	7
Toledo, OH	Cumulus Bcstg. Inc	6	FM	4
Traverse City-Petoskey, MI	Midwestern Bcstg. Company	5	FM	4
Traverse City-Petoskey, MI	Northern Broadcast Inc	6	FM	4
Traverse City-Petoskey, MI	Northern Star Bcstg. LLC	5	FM	4
Utica-Rome, NY	Clear Channel Comm.	9	Overall	7
Utica-Rome, NY	Clear Channel Comm.	5	FM	4
Valdosta, GA	Black Crow Media Group	5	FM	4
Victor Valley, CA	KHWY Inc	8	Overall	7
Victor Valley, CA	KHWY Inc	8	FM	4
Waco, TX	Clear Channel Comm.	4	FM	3
Watertown, NY	Clancy-Mance Comm. North	5	FM	4
West Palm Beach-Boca Raton, FL	Clear Channel Comm.	5	FM	4
West Palm Beach-Boca Raton, FL	Infinity Bcstg.	5	FM	4
Wichita Falls, TX	Cumulus Bcstg. Inc	4	FM	3
Wichita, KS	Journal Comm. Inc	5	FM	4
Wilkes Barre-Scranton, PA	Entercom	9	Overall	8
Wilkes Barre-Scranton, PA	Entercom	6	FM	5
Wilmington, NC	NextMedia Group	5	FM	4
Wilmington, NC	Sea-Comm Inc	5	FM	4
Youngstown-Warren, OH	Cumulus Bcstg. Inc	8	Overall	6
Youngstown-Warren, OH	Cumulus Bcstg. Inc	5	FM	4